

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 34003 of 2007(W)

PETITIONER:

M/S.AVVA UMMA AND CO.(DISSOLVED),
MAIN ROAD, PAYYANNUR, REP. BY ITS
EX-PARTNER, SMT.E.V.AVVA UMMA.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:

1. THE TAHSILDAR, TALIPARAMBA.
2. THE REVENUE DIVISIONAL OFFICER,
THALASSERY.
3. THE DISTRICT COLLECTOR,
KANNUR.

BY GOVERNMENT PLEADER SRI. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ANTONY DOMINIC, J

W.P.(C). 34003/2007

Dated this the 19th day of November, 2007

JUDGMENT

The controversy in this writ petition is regarding Ext.P11 order that the District Collector has issued rejecting the revision filed by the petitioner under the Kerala Building Tax Act, 1975.

2. There are two grounds found against the petitioner. First one is regarding the non-compliance of Section 13(4) of the Act requiring the remittance of 50% tax and the second one is that the petitioner had filed revision petition belatedly.

3. O.P.2628/2003 filed by the petitioner, challenging Exts.P6 and P7 orders was disposed of by Ext.P8 judgment directing the petitioner to file revision before the third respondent. A time limit of six weeks was also fixed for filing such a revision. However, Ext.P10 revision was filed beyond that period. But the fact remains that in the meanwhile, the petitioner had filed I.A.12783/2007

seeking enlargement of time for filing the revision and that I.A was allowed by Ext.P9 order dated 19.10.2007. Since the revision was filed within the enlarged time, the finding of the District Collector that the revision was filed belatedly is incorrect and is ignoring by Ext.P9 order passed by the learned Single Judge of this Court. Thus, the second ground is unsustainable.

4. In so far as the first ground that 50% was not remitted in compliance with Section 13(4) of the Act is concerned, according to the petitioners, they had already remitted 25% and that had they been given an opportunity to make the deposit, they would have deposited the balance 25%. Strictly speaking there is default, but then, I think that for this reason, the petitioner shall not be denied an opportunity to contest his case on merits.

5. Having heard the submissions made by both sides, I dispose of this writ petition directing the third

respondent to re-consider Ext.P10 revision on merits and as a consequence, Ext.P11 will stand quashed. It is also directed that within two weeks from today, the petitioner shall make remittance of tax in terms of Section 13(4) and thereupon the revision will be entertained on merits and dispose of as above within four weeks thereafter.

Petitioner shall produce a copy of this judgment before the third respondent for compliance.

**ANTONY DOMINIC
Judge**

mrCS